

**LOCAL LAW No. 2 OF 2010  
A LOCAL LAW OF  
THE VILLAGE OF NORTHPORT  
TO ADD CHAPTER 15 HISTORIC REVIEW  
IN ALL ZONING DISTRICTS EXCEPT CENTRAL  
BUSINESS A AND B DISTRICTS AND TO  
ADD CHAPTER 16 HISTORIC DISTRICTS  
TO THE CODE OF THE VILLAGE OF NORTHPORT**

BE IT ENACTED: By the Board of Trustees of the Village of Northport as follows:

**Section 1. Legislative Intent**

The Board of Trustees finds that preservation of the Village's heritage and character by establishing a policy which will protect and enhance historic buildings in the Village will enhance the cultural, educational, economic and general welfare of the public, and ensure the harmonious, orderly and efficient growth and development of the Village consistent with its unique heritage and character.

**Section 2. Statutory Authority and Supersession**

This Local Law is adopted pursuant to New York State Village Law, Municipal Home Rule Law, General Municipal Law, Article 5, § 96-a and the State Environmental Quality Review Act and its implementing regulations and expressly supersedes inconsistent provisions of the Village Code.

**Section 3. Applicability**

The provisions of this Local Law shall apply to all lands situated in whole or in part within the boundaries of the Incorporated Village of Northport, except to the extent it is inapplicable to specified zoning districts or individual properties as specifically set forth in the provisions of the code amendments.

**Section 4. Amendments:**

**CHAPTER 15: HISTORIC REVIEW IN ALL ZONING DISTRICTS  
EXCEPT CENTRAL BUSINESS A AND B  
DISTRICTS**

## **§15-1 Legislative Intent.**

It is the intention of the Board of Trustees of the Incorporated Village of Northport to enact legislation to preserve the Village's heritage and character by establishing a policy which will protect, enhance and perpetuate the exterior of historic buildings in all zoning districts except Central Business A and B zoning districts, which are subject to Historic Review as set forth in Chapter 14. The Board finds that such regulation will enhance the cultural, educational, economic and general welfare of the public, and ensure the harmonious, orderly and efficient growth and development of the Village and neighborhoods within the Village, consistent with Northport's unique heritage and character.

The Board intends that the review and approval of historic buildings by the Board of Architectural and Historic Review be prompt, fair, and not unduly burdensome to property owners and allows informal discussion before final plans are submitted.

This chapter creates a two step review process: first, Historic Determination to determine whether a building meets the historic criteria and, if so, is therefore considered an historic building. Second, if there has been a positive determination under Historic Determination or if there has been an historic designation by other jurisdictions such as New York State, whether the proposed alteration or demolition meets the criteria of Historic Plan Review.

The first step, Historic Determination **is required only** for buildings that are at least 100 years old **and then only** for improvements to the exterior of the building that require a building permit or a demolition permit. Therefore, the legislation does not apply to such work as painting and door/window modernization. Furthermore, even where a building permit is required, review may be waived if the proposed work is minor and has no impact on the appearance of the building and is an in-kind replacement.

Modern substitutes of historic materials are allowed if they maintain the historic appearance and character of the structure. Under some circumstances hardship exceptions, partial tax relief, and emergency review are possible. Any property owner may voluntarily request review, even in the absence of any planned work. A property owner is not required to file a covenant on any property found to be historic.

*The legislation also allows a property owner to defer Historic Determination under §15-4 by voluntarily submitting proposed plans to the Board of Architectural and Historic Review for review under Historic Plan Review pursuant to §15-6, without waiving any rights to object to Historic Determination if they are not satisfied with the Historic Plan Review process at any time. The Board of Architectural and Historic Review will determine whether the plans and building qualify for the partial property tax exemption set forth in §15-11.*

These reviews and any related review by the Board of Architectural and Historic Review required of a non-residential property by the Village code may be combined into one public hearing.

**§15-2 Definitions.** For the purposes of this Chapter, the following phrases shall have the following meanings.

**ALTERATION:** Only exterior work on a building that requires a building permit or demolition permit

**BUILDING:** Any structure designed for the housing or enclosure of persons or property of any kind, including an accessory building as defined in §306-5 of the Village Code.

**DEMOLITION:** The destruction of the exterior of a building, in whole or in part, whether or not the foundation is also destroyed pursuant to the requirements of a duly issued demolition permit.

**HISTORIC BUILDING:** A building which the Board of Architectural and Historic Review has determined is subject to Historic Plan Review pursuant to this chapter or which meets the definition of landmark.

**HISTORIC DETERMINATION:** The review by the Board of Architectural and Historic Review of applications for demolition permits or building permits for work related to the exterior of buildings that are 100 years old or more to determine whether such buildings meet the historic criteria and are therefore to be considered historic buildings which are subject to Historic Plan Review, or the review performed at the voluntary request of a

property owner for such determination in the absence of an application for a demolition permit or building permit.

**HISTORIC PLAN REVIEW:** The review of applications for demolition permits or building permits for work related to the exterior of buildings that have been found to be historic buildings pursuant to this chapter.

**HISTORIC STYLE OF ARCHITECTURE:** A style recognized by one of the following organizations or by any other organization generally recognized as expert in historic preservation of buildings, sites and landmarks:

- A. The National Register of Historic Places.
- B. Historic American Buildings Survey.
- C. Historic American Engineering
- D. Division for Historic Preservation, New York State Office of Parks and Recreation.
- E. National Trust for Historic Preservation.
- F. Society of Architectural Historians
- G. Society for Preservation of Long Island Antiquities

**LANDMARK:** Any building that is listed on either the National or the New York State Register of Historic Places or the equivalent registers, if any, maintained by the County of Suffolk or the Town of Huntington.

**LANDMARK AND HISTORIC DISTRICT MAP:** A map to be prepared and maintained by the Board of Architectural and Historic Review, the Village Historian, the Village Building Inspector and code enforcement officer(s) and such other persons as may be designated by the Mayor, identifying the location of all landmarks, landmark sites and historic districts, buildings and properties.

**NON-RESIDENTIAL BUILDINGS:** Any building that is lawfully devoted to non-residential use, in whole or in part.

**PROPERTY OWNER:** A person or business entity having an ownership interest in and to a parcel of land.

**SERIOUS STATE OF DISREPAIR:** Deterioration of any structural feature of a building so as to create a hazardous and unsafe condition, which may result in a claim that demolition, in whole or in part, is necessary to protect the public safety. See also existing Chapter 114, "Buildings and Structures, Unsafe".

**TAX EXEMPTION:** The application of partial tax exemption as provided for in Real Property Tax Law §444-a, as approved by the Tax Assessor of the Village of Northport pursuant to §15-11 herein.

### **§15-3 Restrictions on Demolition, Construction, and Alterations of Buildings Pending Historic Determination**

This chapter applies only to **buildings** that are 100 years old or more. Therefore, no demolition or building permit may be issued for any such building, unless an application to demolish or to make alterations for which a building permit is required has first been approved by the Board of Architectural and Historic Review as follows:

- A. All complete applications for a building permit or demolition permit for all buildings that the building inspector determines to be 100 years old or more, or a letter of intent that contains such information and supporting documentation as the Building Inspector shall reasonably require, shall be referred to the Board of Architectural and Historic Review, which shall determine whether the building meets the criteria of §15-4(A). In making the determination of the age of the **building**, “circa” dates determined by reputable authority, which shall include the circa dates as recorded in the building inventory survey of the Village of Northport, shall be a sufficient basis upon which to determine the age of a building for the purposes of this chapter. A positive determination that the building is historic requires that the proposed demolition or other alteration for which a building permit is required undergo Historic Plan Review pursuant to this chapter. If the property owner objects to such positive determination, the Board shall schedule a public hearing on the application to be held as soon as practicable but in no event later than sixty (60) days from the time the application is complete as determined by the

Board Chairman, unless the applicant requests a later date. Upon conclusion of the public hearing, the Board shall make a written determination within thirty (30) days whether Historic Plan Review is required applying the criteria set forth in §15-4 of this chapter. If it makes a negative determination finding that Historic Plan Review is not required, then it shall grant authorization to demolish and/or make the proposed alterations, subject to such code requirements that otherwise apply and shall not require Historic Plan Review under this chapter. Nothing contained in such authorization shall be construed to waive any other code or other lawful requirements. The Board shall grant the property owner reasonable requests to adjourn and/or continue the public hearing for the purpose of submitting relevant and material evidence for the Board's consideration.

- B. The positive or negative determination of the Board of Architectural and Historic Review regarding whether Historic Plan Review under this chapter is required shall be final and binding for all present and future applications to demolish or make alterations for which a building permit is required unless newly discovered evidence is presented which the Board finds warrants a re-consideration based upon the quality and the relevance of the evidence or unless this chapter is amended in which case the provisions of such amendment shall apply, and subject to the right of the property owner to file a hardship application as provided for in §15-7 herein. Changes to the exterior of a building made in accordance with approvals previously granted by the Board of Architectural and Historic Review shall not be used to support any claim of newly discovered evidence.
- C. A Property Owner may consent to Historic Plan Review at the time they submit an application for a building or demolition permit. Such consent shall be made in a form as prescribed by the Board of Architectural and Historic Review. A property owner may also make a voluntary request for a positive determination absent any application for a building or demolition permit. In such case, the Board shall determine whether the building satisfies the criteria set forth in §15-4 herein. If such determination is made, the property shall thereafter be subject to Historic Plan Review under this chapter.
- D. In making the determination whether Historic Plan Review is required, the Board of Architectural and Historic Review shall

receive such evidence as any interested party may wish to submit. In the event the Board determines that it requires independent expert review, it may authorize same. The fee of such expert shall be paid by the Village.

- E. In the event the Board of Architectural and Historic Review finds that Historic Plan Review pursuant to this chapter is required, it shall thereafter apply the standards set forth in §15-6 to determine whether to grant, deny, or conditionally grant an application for a permit to demolish or make alterations to the building(s) and property which was the subject of such determination by the Board.
- F. The Board of Architectural and Historic Review has discretion to combine any public hearings it may hold pursuant to a single building or demolition permit application, including hearings on the following:
  - (1) Historic Determination;
  - (2) Historic Plan Review under the procedures and criteria set forth in §15-8;
  - (3) Architectural design review under the procedures and criteria set forth in Chapter 13 of the Village Code;
  - (4) Whether a hardship is present that warrants a waiver of historic and/or architectural review requirements.
- G. The Village shall take such measures as appropriate to ensure that a permanent record is maintained of historic buildings. These measures may include, but shall not be limited to, maintaining an official list of such properties and buildings, along with a copy of the Board's determination and a description of the buildings to which this restriction applies, and updating assessment records, building cards, and related records.

## **§15-4 Criteria for Historic Determination**

A. The Board of Architectural and Historic Review shall determine if a building that is 100 years old or more is required to be subject to Historic Plan Review based upon the criteria set forth in this subsection. The board may make such finding if any one of the following factors are applicable and furthers the purpose of this Chapter. In making such determination, unless the property owner requests and consents to Historic Plan Review and the buildings satisfy the criteria set forth below, the Board must find that the subject building is at least 100 years old and that substantial evidence supports the finding that Historic Plan Review is required with respect to the specific building in issue. A property owner may waive the 100 year old requirement when voluntarily seeking to be subject to Historic Plan Review and may also request Historic Determination in the absence of an application for a building permit or demolition permit. To be the subject of Historic Plan Review, the Board of Architectural and Historic Review must make findings based upon substantial evidence that the building:

- (1) possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the Village, region, state, or nation; or
- (2) is identified with historic personages or is the site of an historic event in the Village, region, state or nation; or
- (3) embodies the distinguishing characteristics of a type, period, style, or method of architecture or engineering; or
- (4) is the work of an important builder, designer, artist or architect whose work has significantly influenced an age; or
- (5) because of its unique location or singular physical characteristics, represents an established and familiar visual or aesthetic feature of the neighborhood; or
- (6) is significant for containing elements of design, details, materials or craftsmanship which represent a significant innovation; or
- (7) has special historical significance to the Village of Northport, Town of Huntington, County of Suffolk, State of New York, or the United States of America, by reason of famous events or the antiquity or uniqueness of architectural construction or design; or

- (8) will promote the public health, safety and/or general welfare if determined to be subject to Historic Plan Review under this chapter; or
- (9) will preserve or enhance village property and/or neighborhood property values, heritage, character, or quality, if determined to be subject to Historic Plan Review, or
- (10) is listed on either the National or the New York State Register of Historic Places or the equivalent registers, if any, maintained by the County of Suffolk and/or the Town of Huntington, or
- (11) possesses an Historic Style of Architecture.

B. A building that has been determined to be subject to Historic Plan Review under this chapter, shall be entitled to a partial Tax Exemption as provided for in §15-11 herein pursuant to Real Property Tax Law §444-a. This partial tax exemption shall be effective only for so long as the subject building remains subject to Historic Plan Review under this chapter, as may be amended by the Board of Trustees from time to time. A property owner is not required to file a covenant to be eligible for this partial tax exemption. Furthermore, in the event a court of competent jurisdiction finds that a violation of this chapter has occurred, then the Board of Trustees may reduce or eliminate the partial tax exemption based upon the degree and time period of the violation. At least ten (10) days notice of action pursuant to this subsection shall be given to the affected property owner.

C. A sub-committee of the Board of Architectural and Historic Review together with such other persons as the Mayor may designate from time to time shall be established to meet with applicants upon request to facilitate the application and review process.

D. The Board of Architectural and Historic Review may recommend approval of variance applications to the Zoning Board of Appeals to the extent the requested variance(s) will further the goals of this chapter and where an historic building that has been substantially demolished is being rebuilt consistent with its historic character as approved by the Board of Architectural and Historic Review and its proposed location is either desired for historic purposes or is substantially the same as where it existed prior to the substantial demolition. The Zoning Board of Appeals is required to follow the recommendation of the Board of Architectural and Historic Review provided

such determination is consistent with the Zoning Board's statutory mandates under New York State Village Law.

E. The Chairman of the Board of Architectural and Historic Review, or the Vice-Chairman in the event of the unavailability of the Chairman, is empowered to waive Historic Plan Review where he finds that the proposed work is minor and will have no impact on the historic appearance of the building and constitutes an in-kind replacement. Such waiver shall be in writing and signed.

**§15-5 Permit required.**

No person shall carry on any exterior alteration, demolition, or new construction or moving of a building that is 100 years old or more, and that meets the definition of historic building, for which a building and/or demolition permit is required, without first obtaining a permit from the Board of Architectural and Historic Review, unless Historic Plan Review has been waived pursuant to §15-4(E):

- (A) No work shall be commenced and no village official shall grant, issue or release a demolition permit or a building permit to alter the exterior of any building that is 100 years old or more, and that meets the definition of historic building, unless a permit has been granted by the Board of Architectural and Historic Review. The permit required in this Chapter shall be in addition to and not in lieu of any building or demolition permit or other approval required by applicable local, state and federal laws, rules, regulations and ordinances.
- (B) Nothing contained in this section is intended to prohibit the construction, reconstruction, maintenance, repair, alteration, improvement or rehabilitation of public highways, streets, roads, walkways, sidewalks, bridges, culverts, sewer and drainage facilities, water facilities and other public property by village, town, county, state and/or federal agencies or utility companies. In addition, nothing contained herein shall be construed to limit the property owner's ability to make (i) any changes or improvements that do not require a building or demolition permit; and (ii) any interior changes or improvements whether or not such work requires a building and/or demolition permit.

- (C) Nothing contained in this section is intended to prevent changes to the interior of a building or is intended to prevent ordinary maintenance and such repairs as do not change an exterior architectural feature, the exterior design, material, or outward appearance of an improvement to a building which has been determined to be required to submit to Historic Plan Review under this chapter, except as otherwise required by this code.
- (D) This section is not intended to prevent the construction, reconstruction, restoration, rehabilitation, repair, alteration or demolition of any part of an existing exterior feature, or façade which, in the opinion of the building inspector and/or the fire marshal presents an immediate safety hazard and requires an immediate emergency repair to preserve the structure or to safeguard the health and safety of its occupants or other persons (see also existing Chapter 114, "Buildings and Structures, Unsafe"). The term "emergency repair" shall not include major replacements/repairs, and is limited to the work necessary to stabilize the building; or to protect the safety of occupants or the public. No additional work is to be performed until a required permit has been requested by the applicant and granted by the Board of Architectural and Historic Review and all other required approvals and permits are obtained.
- (E) Nothing in this Chapter is intended to relieve a property owner from obtaining a building or demolition permit or other approvals required by local, state and/or federal law, rules, regulations and ordinances. The work performed shall be in compliance with all applicable requirements.
- (F) The Chairman of the Board of Architectural and Historic Review, or the Vice-Chairman in the event of the unavailability of the Chairman, is empowered to waive Historic Determination or Historic Plan Review, if the building was previously judged historic or is in an historic district, where he finds that the proposed work is minor and will have no impact on the historic appearance of the building and constitutes an in-kind replacement. Such waiver shall be in writing and signed.

- (G) Nothing in this Chapter is intended to prevent the installation of any externally-mounted device that is meant to capture or make use of solar photovoltaic power, solar thermal energy, or other form of solar power, even when a building permit is required, if the device:
- (1) requires piercing the building's shell only to the extent necessary to securely mount the device upon the building and to allow for the conduction of electricity, water, or other energy-carrying medium to the building's interior, and
  - (2) remains outside the building's shell except for the minimal piercing described in (G)(1), and does not itself replace any portion of the roof. Further, the Chairman of the Board of Architectural and Historic Review, or the Vice-Chairman in the event of the unavailability of the Chairman, shall waive Historic Plan Review (or Historic Plan Review, if the building was previously judged historic or is in an historic district) concerning the solar power device where he finds that the proposed installation meets these two criteria. Such waiver shall be in writing and signed.

**§15-6 Historic Plan Review: Demolition or Alterations to Historic Buildings Which Require a Building Permit**

Following the procedures set forth below in §15-9, the Board shall make written findings granting, denying or granting with conditions the application for a permit to demolish and/or make alterations which require a building permit to buildings that are subject to Historic Plan Review under this chapter. Such determination shall be based upon a consideration of the following factors as they relate to the historic significance of the building:

- (1) The impact of the proposed changes on the special character or historic, architectural, engineering, cultural or aesthetic interest or value of the structure or site and/or the surrounding properties and/or structures, including other properties and structures within the zoning districts in which the subject structure/property is located;
- (2) The general design, character and appropriateness to the property of the proposed action;

- (3) The scale of the proposed construction or alteration in relation to the property itself, surrounding properties and the neighborhood;
- (4) Whether the proposed construction or alteration is visually compatible with the textures, materials of the façade and roof of the historic portion of the building or structure, and its historic architectural style, proportion, scale and configuration;
- (5) The legally permitted use of the property and of the buildings therein;
- (6) In the event of an application to raze or demolish, in whole or in part, a building subject to this chapter, the Board shall, in addition to the foregoing, consider the structural condition and the economic feasibility of alternatives to the proposal; and the importance to the Village and the extent to which its special character or architectural, engineering, cultural, historic or aesthetic interest or value is such that its removal would be detrimental to the public interest or its retention would benefit the community;
- (7) The applicant shall use such materials in the construction or alteration of a building as the Board determines are reasonable under all of the circumstances. However, the Board must allow all applicants to use modern materials of similar design and texture in lieu of original, authentic style materials if the historic appearance and character of the building can be maintained. Applicants may elect to use original, authentic style materials in all cases.
- (8) Historic features and *historic* facades *should* be altered as little as possible.
- (9) All alterations must be consistent in style, texture, scale and proportion with the historical features of the building.
- (10) No approved or unapproved alterations made subsequent to the adoption of this chapter can be used in the future as a reason to support a finding that an historic structure is no longer historic.
- (11) The Board shall consider the impact of the proposed construction, alteration or demolition upon nearby properties that are subject to Historic Plan Review pursuant to this chapter.

- (12) Any building found to be subject to Historic Plan Review may be referred to as a landmark by the property owner at his or her discretion.
- (13) Repairs to any portion of a building shall be permitted with original or like materials and original methods of construction, to the extent permitted by Chapter 10, "Historic Buildings", and Chapter 2, "Definitions", of the 2007 Existing Building Code of New York State or its successor code.

### **§15-7 Maintenance and Repair of historic buildings**

A. No owner or person with an interest in any historic building or any building that is at least 100 years of age, whether it has already received Historic Plan Review or not, shall intentionally and knowingly or with reckless disregard cause such building to fall into a serious state of disrepair, which is defined as the deterioration of any structural feature of a building so as to create a hazardous and unsafe condition, which may result in a claim that demolition, in whole or in part, is necessary to protect the public safety.

B. An owner or person with an interest in any historic building or any building that is at least 100 years of age, who intentionally and knowingly or with reckless disregard cause such building to fall into a serious state of disrepair shall be in violation of this section and shall be required to restore the building to its appearance prior to the violation.

C. The requirements of this section are in addition to and not in place of any other maintenance and repair obligations contained anywhere in the Northport Village Code (for example, see existing Chapter 114, "Buildings and Structures, Unsafe").

### **§15-8 Relief based upon Hardship.**

A. The Board of Architectural and Historic Review must consider the hardship to a property owner in making all determinations under this chapter, including but not limited to imposing the Historic Plan Review requirement; denying in whole or in part a request to demolish or make alterations to a building subject to Historic Plan Review; and revoking or modifying a prior determination made by the Board under this chapter. The Board must conduct a public hearing on notice as provided for in §15-8 on all requests for relief based

upon hardship. A separate public hearing on a request for this relief does not have to be held if this request is considered at a duly noticed public hearing regarding the same building.

B. With respect to a request to revoke or modify a determination made by the Board under this chapter, the petitioner shall demonstrate that there has been a substantial change in one or more of the factors set forth in §§15-4 and 15-5 and/or that the requirement that the building undergo Historic Plan Review under this chapter has created an unreasonable hardship as set forth in §15-8. Revocation and/or modification of a determination, in whole or in part, shall be reserved for rare instances where change, not attributable to any deliberate conduct on the part of the owner or purchaser, has made continued Historic Plan Review inconsistent with the purposes of this Chapter and has worked an unreasonable hardship upon such owner or purchaser.

C. A property owner may claim hardship in order to oppose a finding that Historic Plan Review under this chapter is required for one or more of the buildings on a property. A property owner(s) may also claim hardship with respect to a request to demolish or make alterations to any buildings on such property. The hardship claim can be made regarding an entire application or with respect to specific features of a proposal to alter the building. The burden is upon the property owner to establish the existence of hardship by providing evidence of the following to the satisfaction of the Board of Architectural and Historic Review:

- (1) With respect to commercially zoned properties, the property is incapable of earning a reasonable return, regardless of whether the return represents the most profitable return possible. The property owner shall provide dollars and cents proof to demonstrate that the claim of hardship is well founded; ***with respect to residentially zoned properties, that the building cannot be renovated in compliance with the historic design criteria of this law without a substantial loss in value;*** and
- (2) the property can not be adapted for any other use permitted by the zoning ordinance in the zoning district in which the property is located, whether by the current owner or by a purchaser, which would result in a reasonable return; and

- (3) good faith efforts to find a purchaser interested in acquiring and preserving the property and its structure(s) have failed
- (4) that the claimed hardship did not result from a self-created hardship or the property owner's failure or neglect without reasonable excuse to maintain and/or repair the building.

**§15-9 Applications; procedure**

A. A written request as required under this chapter, including for a determination of whether Historic Plan Review is required, for a permit to demolish or make alterations to a building subject to Historic Plan Review, to revoke or modify any prior determinations made by the Board of Architectural and Historic Review under this chapter, and/or for relief based upon hardship shall be filed in the Office of the Village Clerk. Eight (8) copies of each of the following shall be filed: the written request; the current deed to the property; a survey with all existing buildings on the property certified by a licensed surveyor; architectural plans with respect to proposed renovations. For all commercially zoned properties also see Chapters 13, "Architectural and Historic Review, Board of" and A311, "Board of Architectural and Historic Review Rules and Regulations" of this code. The Board may waive any of these requirements for good cause. The Village Clerk shall retain one copy and shall forthwith forward all other copies to the Board of Architectural and Historic Review. In the event the property owner objects to being subject to Historic Plan Review or seeks relief from any of the requirements under this chapter, the Board shall schedule a public hearing to be held within sixty (60) days of receipt of a completed application and thereafter issue a determination in compliance with the relevant requirements of this chapter. The property owner shall have the right to present evidence in support of the request.

B. Notice of any public hearing required under this chapter shall be published in the issue of the official newspaper of the Village, and in such other manner as the Board of Architectural and Historic Review may direct, preceding the date of such hearing. The cost of said publication shall be borne by the applicant, which shall be paid in full prior to publication in accordance with the procedures set forth in Northport Code §147-4. The failure to pay the

required fee shall toll the time period for the scheduling of the public hearing. Applicants shall serve personally or by mail a written notice setting forth the nature and substance of the application and the time and place of the hearing at which the application shall be heard by the Board upon all owners of property shown on the current assessment rolls of the Village of Northport any part of which is located within 500 feet of the building to which the application relates. A second distribution of said notice shall be addressed to "Occupants" of said properties. Such notice shall be served by mail not less than 10 days or by personal service not less than seven days prior to the date of the hearing, and proof of proper service, in affidavit form, shall be submitted to the Board by the applicant at or prior to the hearing. The subject property shall be posted with a notice of the public hearing for the five (5) days immediately preceding the public hearing.

C. Within sixty (60) days of filing of a determination of the Board of Architectural and Historic Review that Historic Plan Review is required pursuant to this chapter, or a determination under Historic Plan Review, an aggrieved party may file a written appeal to the Board of Trustees by filing same with the Village Clerk. This appeal is limited to the record made before the Board of Architectural and Historic Review. No new evidence shall be permitted to be submitted to or considered by the Board of Trustees, which may affirm or remand the determination to the Board of Architectural and Historic Review to re-consider based upon the written determination of the Board of Trustees. This appeal shall be by submission only, except that an aggrieved party may request permission to make an oral argument to the Board of Trustees, which has discretion to grant or deny this request, which request shall be made in writing at the time of the filing of the appeal. All written submissions to the Board of Trustees must be filed no later than sixty (60) days from the date of filing of the determination of the Board of Architectural and Historic Review appealed from. Upon filing with the Village Clerk of a written determination by the Board of Trustees which affirms the determination appealed from, an aggrieved party may commence an Article 78 proceeding in accordance with the Civil Practice Law and Rules. In the event the Board of Trustees remands the determination, then the aggrieved party must exhaust administrative remedies and appeals prior to commencement of an Article 78 proceeding.

D. A determination by the Board of Architectural and Historic Review to approve an application shall be considered as evidence in support of an application regarding the same premises and same project to any other board.

Nothing contained herein shall affect the obligation or option any Board of the Village may have to provide comments or recommendations to another Board as elsewhere provided in the Village Code or as otherwise provided for in state or local law. Where relevant, the Boards are strongly encouraged to provide comments to each other regarding simultaneously pending applications for the same premises.

E. Where a proposed construction, demolition or alteration requires approvals from more than one board, the applicant may apply simultaneously for approval from the Board of Architectural and Historic Review, the Board of Zoning Appeals and/or the Planning Board. Copies of all applications shall be provided to all boards whose approvals are required. The Board of Architectural and Historic Review is not required to approve an application on the basis of a variance granted by the Board of Zoning Appeals or approval of the Planning Board where the Board of Architectural and Historic Review finds that such a plan of development does not satisfy historic plan review requirements as set forth in this chapter.

F. The Board shall protect the privacy rights of any applicants' financial information and records that are submitted in connection with any application.

G. Upon request of an applicant who is required to obtain the approval of two or more Village boards, the Mayor shall designate a Village official or employee to assist the applicant in the processing and expediting of the various applications and approvals required from the Village.

## **§15-10 Voluntary Historic Plan Review**

*Any property owner, including properties containing buildings that are 100 years old or more, may defer Historic Determination pursuant to §15-4 by voluntarily submitting plans for the exterior alteration of a premises for which a building permit is required to the Board of Architectural and Historic Review pursuant to §15-6. A property owner who is not satisfied with the results of Historic Plan Review may appeal to the Board of Trustees following the procedure set forth in §15-9(C). If a property owner is not satisfied with the results of this process, then he/she may at any time object to Historic Determination under the criteria set forth in §15-4 and pursuant to the procedures set forth in §15-9. The buildings of a property owner who opts for*

*Voluntary Plan Review will not be recorded in Village records as historic buildings unless consented to by the property owner. Alterations to buildings which undergo Historic Plan Review shall be eligible for partial real property tax exemption pursuant to §15-11 if determined to qualify for the exemption by the Board of Architectural and Historic Plan Review.*

**§ 15-11 Partial tax exemption for altered and rehabilitated historic buildings.**

A. Pursuant to § 444-a of the Real Property Tax Law of the State of New York, the Board of Trustees of the Village of Northport, after due consideration, has provided for a partial real property tax exemption for qualified alterations and rehabilitation and/or re-construction of certain historic real property not to exceed the amounts specified therein.

No exemption shall be granted for such alterations or rehabilitation or re-construction unless each of the following has been met:

- (1) Such building has been found to be subject to Historic Plan Review by the Board of Architectural and Historic Review or the property owner has consented to such review and the Board determines that the property meets the criteria for being an historic building;
- (2) Alterations or rehabilitation are consistent with the character of the historic building;
- (3) Such alterations or rehabilitation or re-construction of the historic building are approved by the Board of Architectural and Historic Review prior to commencement of work;
- (4) The alterations or rehabilitation or re-construction must otherwise result in an increase in the assessed valuation of the real property; and
- (5) Alterations or rehabilitation or re-construction are commenced subsequent to the effective date of this article.

B. In the event an historic building is substantially demolished due to fire or other act of nature not caused by the property owner, the re-construction of such building consistent with its historic character as reviewed and approved by the Board of Architectural and Historic Review shall qualify for the partial tax exemption but in no event shall the assessment for the taxes to be paid be less than the assessment that existed prior to the substantial demolition.

C. Such historic building shall be exempt from taxation to the extent of any

increase in value attributable to such alteration or rehabilitation pursuant to the following schedule:

**Year of exemption Percent of Exemption**

|    |      |
|----|------|
| 1  | 100% |
| 2  | 100% |
| 3  | 100% |
| 4  | 100% |
| 5  | 100% |
| 6  | 80%  |
| 7  | 60%  |
| 8  | 40%  |
| 9  | 20%  |
| 10 | 0%   |

**D. Application for exemption; approval.**

- (1) The exemption may be granted only upon application of the owner or owners of such historic building on a form prescribed by the New York State Office of Real Property Services, or any successor agency.
- (2) The application must be filed with the Assessor on or before the appropriate taxable status date.
- (3) The exemption shall be granted where the Assessor is satisfied that the applicant is entitled to an exemption pursuant to this section.

**E. All of the terms, conditions and exceptions as set forth in § 444-a of the Real Property Tax Law of the State of New York, as amended, are adopted herein unless otherwise specified, as though fully set forth within this article.**

**§15-12 Emergency**

In the event that there is the need for immediate repairs and/or renovations to a building subject to Historic Determination or Historic Plan Review, by reason of imminent threat to life and safety or for other significant reasons as determined by the Chair of the Board of Architectural and Historic Review or, in his or her absence, the Vice Chair, then an emergency meeting of the Board

shall be called and those Board members in attendance shall be authorized to grant permission for those alterations, renovations and/or other improvements that are necessary to meet the immediate threat or need, whether or not a quorum is present for such meeting. In the event the threat is so imminent that there is insufficient time to call a meeting, then the Chair or Vice Chair can authorize permission for those alterations, renovations and/or other improvements that are necessary to meet the immediate threat or need and can waive any of the requirements of this chapter.

**§15-13. Penalties for offenses.**

- A. No person, firm or corporation, including but not limited to owner(s), occupant(s), contractor(s) or agents, employees or representatives of same, shall demolish, construct, reconstruct or alter any building within the territorial limits of the Village of Northport if the demolition or building permit application for such work has been referred to the Board of Architectural and Historic Review for its approval unless and until said Board has approved such application and a building permit or demolition permit has been issued by the Building Inspector and all other legal requirements have been satisfied.
- B. All work performed pursuant to a permit issued under this chapter shall conform to any requirements included therein. It shall be the duty of the building inspector or other authorized Village employee to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the permit, the Village official is authorized to take all lawful enforcement action including the issuance of a stop work order directing the immediate cessation of all work.. No further work shall be undertaken on the project so long as a stop work order is in effect.
- C. Each violation of this chapter shall be punishable by a fine of not more than \$1,000, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. In addition to such fine, the violator shall pay all costs and expenses incurred by the Village in proving such violation.
- D. The Building Inspector or any other enforcement officer of the Village of Northport may place a stop-work-order on any violation discovered during the demolition, construction/building process. The Building Inspector or any other enforcement officer of the Village may at any time refuse to issue, or revoke, a certificate of occupancy for the

building constructed or being constructed on the site in violation of this chapter until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

**§15-14 Civil Remedy**

The owner of the building and any person who demolishes, alters, constructs, or permits a building subject to this article to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation, if directed to do so by the Board of Trustees, which shall make such determination at a public hearing where substantial evidence establishes that a violation as described herein occurred. Ten days' notice of the public hearing shall be made by written notice to the property owner and occupant and by publication in the official newspaper of the Village. Any action to enforce this subsection shall be brought by the Village Attorney. The Village shall be entitled to recover the costs of such civil action, including reasonable attorney's fees, if it prevails in such action by settlement or court determination. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

**§ 15-15 Fees.**

There shall be no fee for applications pursuant to this chapter.

**§15-16 Supersession of inconsistent code provisions.**

The provisions of this chapter shall supersede any inconsistent code provisions with respect to the subject matter hereof.

**§15-17 Sunset Provision**

The provisions of this chapter shall lapse and cease to be of any force and effect on March 1, 2012 unless the Board of Trustees acts to extend or make permanent these amendments prior to that date.

**CHAPTER 16: HISTORIC DISTRICTS**

## **§16-1 Legislative Intent.**

A. The Board of Trustees of the Incorporated Village of Northport finds that the conservation, protection and preservation of distinct geographic areas within the Village is in harmony with and will promote and enhance the cultural, educational, economic and general welfare of the public, will preserve and enhance property values, and will ensure the harmonious, orderly and efficient growth and development of these distinct areas and of the Village as a whole, consistent with its unique heritage and character.

B. In response to the findings in §16-1.A above, the Board of Trustees of the Incorporated Village of Northport declares that it is their intention to enact legislation that would permit property owners in a section or area of the Village to petition to have a defined geographical area designated as a Historic District requiring all buildings in that district, regardless of age, for which a building permit or demolition permit has been applied, to undergo the same review procedures as required under §15-6 of the code.

C. The Board intends that those property owners who petition for a Historic District designation shall have the burden of establishing the merit of such designation pursuant to standards set forth in this chapter and as referenced in other chapters of this code. The first step is to file a petition with the Village Clerk as described in this chapter signed by at least a majority of the property owners in a proposed district. A public hearing will then be scheduled before the Board of Architectural and Historic Review which shall make a recommendation to the Board of Trustees. A majority vote of the Board of Trustees is required to establish a Historic District under this chapter.

D. As is the case with Chapter 15, Historic Plan Review of properties in a duly established Historic District is required only for improvements to the exterior of the building that require a building permit or demolition permit. Therefore, the legislation does not apply to such work as painting and door/window replacement or interior alterations. Furthermore, even where a building permit or demolition permit is required, review can be waived if the proposed work is minor and has no impact on the appearance of the building and constitutes an in-kind replacement. Modern substitutes of historic materials are allowed if they maintain the historic appearance and character of the structure. Under some circumstances hardship exceptions, partial tax

relief, and emergency review are possible. Historic designation by other jurisdictions, such as New York State, is recognized. A property owner is not required to file a covenant on any property found to be historic.

**§16-2**        **Definitions.** For the purposes of this chapter and to the extent applicable, the definitions set forth in chapters 14 and 15 shall apply in addition to the following:

**CONTRIBUTING BUILDING:**

A building that either has been determined by the Board of Architectural and Historic Review to be a historic building, or one which, while not meeting a criterion set forth in §15-4 of this code for an historic building, nevertheless contributes to the overall visual characteristics of the proposed historic district.

**HISTORIC DISTRICT:**

A designated area, small or large, which contains within definable geographic boundaries one (1) or more historic buildings and which may have within its boundaries Contributing Buildings.

**§16-3.        Areas eligible for designation as a Historic District**

The Board of Trustees may designate any area containing buildings as a Historic District if the area:

- (A) Contains one (1) or more properties with one (1) or more buildings that has previously been determined by the Board of Architectural and Historic Review to be a historic building and which contains one (1) or more additional properties with one (1) or more contributing buildings; and
- (B) By reason of possessing such qualities, it constitutes a distinct section of the Village; and
- (C) The Board of Architectural and Historic Review has recommended such designation after holding a public hearing on notice to all affected properties.

**§16-4. Procedure for designation of a Historic District.**

The Board of Trustees may designate a Historic District, subject to the following procedures:

A. Property owners may petition the Board of Trustees to designate a defined geographic area in the Village that meets the definition of a Historic District by filing a petition in a form approved by the Village Attorney in the Office of the Northport Village Clerk if signed by a majority of the property owners in the proposed district. All property owners of record must sign for the property to be counted towards calculating whether a majority of property owners have signed the petition. Each property owner petitioning the Board for a proposed district shall submit a copy of the latest deed to his/her own property within the district. The petitioners shall mail a complete copy of the petition and all attachments, if any, to all property owners within the proposed district who have not signed the petition. Proof of mailings, in affidavit form, shall be submitted to the Village Clerk at the time of the filing of the petition. The Village Clerk shall provide a copy of the proof of mailing to the Secretary of the Board of Architectural and Historic Review.

The petition shall include the complete names and addresses of all property owners signing the petition. Next to each name shall be the date of signing. The petition shall also include the street addresses of all other properties located within the proposed district and identify the street addresses of the historic buildings and contributing buildings. Any one page of the petition may be carried by only one individual. The carrier of a page shall sign and date the bottom of the petition page to attest that each signature was written by the person and that the street address and date of signing are correct.

Additional materials to be submitted with the petition shall include a legal description (property boundaries as contained in the deed) of all properties proposed to be included in the district together with a copy of the tax map of the area obtained from the Village Clerk shaded or outlined to show the area to be included in the proposed district and shaded or outlined in a distinguishable manner to show the properties that contain historic buildings, together with photographs of each of the buildings proposed to be included, to the extent same is obtainable without trespassing upon private property without the permission of the owner, and any other relevant documents or materials. Failure to include any such documents or materials with the petition shall not preclude the petitioners from submitting same at the public

hearing or at such other time as the Board of Architectural and Historic Review may require.

B. The Village Clerk shall, within five (5) business days of such filing, forward a copy of the petition and its attachments to each member and the secretary of the Board of Architectural and Historic Review for their review and evaluation. The Village Clerk shall also forward a copy of the petition and attachments to each member of the Board of Trustees, Planning Board, Board of Zoning Appeals, the Building Inspector and the Code Compliance Officer and request that the same provide any comments in writing to the Board of Architectural and Historic Review prior to the scheduled public hearing. Thereafter, the following procedure shall be followed:

(1) Upon receipt of a petition, the Board of Architectural and Historic Review shall schedule a public hearing on notice to all recipients of the mailing described in §16-4(A), as well as all signatories of the petition, at Village expense, in substantial compliance with the applicable procedures set forth in chapters 13, 14 and 15. The petitioners shall have the burden of submitting evidence in support of the petition. The Board may continue the public hearing on additional hearing dates as necessary to hear all relevant public comment and receive all relevant information.

(2) In the event the Board of Architectural and Historic Review votes to disapprove the petition to create a Historic District, such determination shall be in writing and shall include findings and the basis for this determination which shall be final upon filing with the Village Clerk, who shall cause a copy to be mailed to all property owners within the proposed district. In the event a majority of the Board of Architectural and Historic Review votes to approve a petition, the Board shall submit its written findings and recommendations to the Board of Trustees and the Village Clerk, who shall mail a copy of such findings and recommendations to all property owners in the proposed district. The Board's findings and recommendations shall include a report on the testimony and evidence received at the hearing and the basis for the Board's determination. The Board's report shall be advisory in nature. The following factors shall be considered by the Board of Architectural and Historic Review:

(a) The age of the buildings proposed to be included within the proposed district and one (1) or more of the factors set forth in §15-4; and

(b) The general condition of the buildings located in proposed historic district; and

(c) The relationship to each other of the buildings proposed to be included within the Historic District and why they collectively meet the definition of a Historic District; and

(d) The extent of the hardship such designation would create for the property owner(s). This determination shall be for specific properties upon the request of the owners of those properties, using the same procedure and criteria as established in §15-7 of this code. Failure to request a hardship determination or receipt of a negative determination shall not preclude the property owner from seeking another determination at a later date when filing an application for a building or building permit or demolition permit.

(3) The findings and recommendations of the Board of Architectural and Historic Review and its complete record shall be available for inspection by members of the public in the Office of the Village Clerk during business hours.

(4) In the event of a disapproval determination by the Board of Architectural and Historic Review, any petitioner may make a written request to the Board of Trustees that a public hearing pursuant to this section nevertheless be held to consider whether or not to approve the Historic District. The written request shall state the reasons why petitioner disagrees with the disapproval determination. The Board of Trustees shall decide whether or not to grant the request within thirty (30) days of receipt of same. If the Board of Trustees grants the request, it shall schedule a hearing and proceed in accordance with the requirements of this section set forth in subsections B through F herein.

C. The Board of Trustees shall schedule a public hearing on a petition for designation of a Historic District to be held within sixty (60) days of receipt of the Board of Architectural and Historic Review's findings and recommendations with regard to the proposed Historic District. Notice and the procedures for the public hearing shall be the same as generally applicable for public hearings before the Board of Trustees. Notice of a public hearing shall be mailed to all recipients of the mailing described in §16-4(B)(1). The petitioners shall have the burden of presenting the

evidence in support of the petition. The entire record of the Board of Architectural and Historic Review shall be admitted into the record before the Board of Trustees by reference thereto. The Board of Trustees may on its own motion call witnesses, including architects, engineers, planning consultants or other experts, and may consider such other evidence it deems necessary or advisable at the public hearing.

D. In determining whether or not to designate a new Historic District, the Board of Trustees shall consider the factors listed in §15-4, the testimony of the property owners within the proposed district; the testimony of any expert presented by any property owners within the proposed district; the findings and recommendations of the Board of Architectural and Historic Review. The Board's report is advisory in nature and the final decision is reserved to the Board of Trustees; any other relevant information or evidence submitted before the Board of Architectural and Historic Review or submitted at the hearing before the Board of Trustees.

E. Within thirty (30) days of the conclusion of the public hearing, the Board of Trustees shall render its decision on the proposed designation. The Board of Trustees may extend the period in which to act for one additional thirty (30) day period.

F. The decision of the Board of Trustees shall be filed in the Office of the Village Clerk and shall be final and binding for all present and future petitions concerning the proposed historic district, unless this article is amended, in which case the provisions of the amendment shall apply, or if, in the opinion of the Board of Architectural and Historic Review or the Board of Trustees, substantial new information warrants a re-consideration. The Board's decision shall be forwarded by the Village Clerk to the owners of all properties located within the proposed Historic District by regular mail within fourteen (14) days of the Board of Trustee's decision.

G. The Board of Trustee's designation of Historic Districts and its boundaries shall be clearly and accurately set forth in the property and building records of the Village.

H. The following sections shall apply to all buildings, without regard to the age of the building, located on properties that are within a Historic District established under chapter 16: §§15-5, 15-6, 15-7, 15-8, 15-9, 15-11, 15-12, 15-13, 15-14, 15-15, 15-16.

I. The Chairman of the Board of Architectural and Historic Review, or the Vice-Chairman in the event of the unavailability of the Chairman, is empowered to waive Historic Plan Review where he or she finds that the proposed work is minor and will have no impact on the historic appearance of the building and constitutes an in-kind replacement . Such waiver shall be in writing and signed.

**§16-5. Moratorium pending consideration of petition for Historic District.**

No work shall be commenced for which a building permit or demolition permit is required and no building permit, demolition permit or other approval shall be granted, issued or released to construct, reconstruct, repair, restore, rehabilitate, renovate, alter, change, demolish, raze or move any building located within a proposed historic district from the date of filing of a petition in the Office of the Village Clerk to the date a final decision is rendered by the Board of Trustees; and if no decision is rendered, until the expiration of ninety (90) days from the date of the close of the public hearing, unless otherwise extended by the Board of Trustees, provided, however, that the Board of Trustees or Board of Architectural and Historic Review may at any time during the moratorium authorize an exemption from this moratorium, provided that the property owner submits a written request, which shall include a detailed description of the specific work to be done and the reasons why the exemption would not violate the goals of establishing the proposed historic district. The Board shall vote at a duly noticed public meeting. Approval of an exemption from this moratorium shall not relieve the applicant from any other required applications and reviews provided for in this code.

**§16-6 Sunset Provision**

The provisions of this chapter shall lapse and cease to be of any force and effect on March 1, 2012 unless the Board of Trustees acts to extend or make permanent these amendments prior to that date.

**Section 5. Severability**

If any clause, sentence, paragraph, subdivision, section or other part of this Local Law shall for any reason be adjudged by any court of competent

jurisdiction to be unconstitutional or otherwise invalidated, such judgment shall not affect, impair or invalidate the remainder of this Local Law, and it shall be construed to have been the legislative intent to enact this Local Law without such unconstitutional, or invalid parts therein.

**Section 6. Effective Date**

This local law shall take effect immediately upon filing in the Office of the Secretary of State.